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Reply to Office Action of September 30, 2003

### REMARKS/ARGUMENTS

Reconsideration is respectfully requested in view of the above amendments and the following remarks.

Claim 8 is amended herein for formal reasons.

Claims 1, 8-11, 13, 19, and 21 are amended herein to recite a screen layer, rather than a screen. Applicant respectfully submits that this is at least implicitly supported by the disclosure, for example as shown in Figure 2. Therein, the screen 30 is shown as a layer of material.

Claims 1 and 21 are further amended herein to recite that all air flowing through the air flow path must pass through the screen, and all air passing through the screen must rise while passing therethrough. Applicant respectfully submits that this is at least implicitly supported by the disclosure, for example in the paragraph beginning at page 8, line 1.

Therein, it is disclosed that "the air flow path 50 is shaped so that air traveling therethrough must travel upward through the screen 30".

Applicant emphasizes the phrasing that the air must travel upward through the screen. Furthermore, no alternative is described that would enable air in the air flow path to flow through the screen without flowing upward therethrough. In addition, Applicant notes that as illustrated in Figure 2, all of the air traveling along the airflow path 50 is shown to travel upward through the screen. Thus, Applicant respectfully submits that it is at least implicit in the disclosure that all of the air flowing through the air flow path must pass through the screen, and that all of the air passing through the screen must rise while passing therethrough.

Claims 1-21 are pending in the application. No new matter has been added.

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Claims 1, 19, and 21 are rejected under 35 U.S.C. § 102(b) as being anticipated by Powell et al. (U.S. Patent No. 6,167,862). Applicant respectfully traverses the rejection.

Claim 1 of the present invention recites an air flow path from an air intake to an engine air inlet, with a screen layer interposed between the air intake and the engine air inlet. All air flowing through the air flow path must flow through the screen layer. In addition, the air flow path rises between the air intake and the screen layer, such that all air passing through the screen layer must rise while passing therethrough. Claim 21 recites similar features.

The rejection asserts that the filter assembly 140 of Powell is equivalent to the screen layer of the present invention. Applicant respectfully disagrees.

As disclosed by Powell, the filter assembly is not a screen layer, nor a layer at all. Rather, as illustrated in Figure 2 of Powell, the filter assembly is a canister 142 in the form of a hollow, open-ended cylinder. As described at column 3, lines 33-38, the canister has an air receiving surface (outer wall 150) and an air emitting surface (inner wall 152). In addition, as described at column 3, lines 45-48, the canister includes an end cap 148 at the bottom thereof, which covers and blocks the lower portion of the canister.

As indicated at column 2, lines 60-61 of Powell, air flows generally in the direction of arrow 188. As illustrated, the arrow indicates air flowing from the upper end of the canister.

Powell discloses at column 3, lines 38-49 that in operation, air flows into the canister through the outer wall, passes through a filter media 156, which filters the air, and then exits through the inner wall.

Applicant respectfully submits that this cylindrical canister of Powell is entirely different structurally from the screen layer of the present invention.

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Moreover, even if the filter assembly of Powell could be considered structurally similar to that of the present invention, which point Applicant does not concede, the functionality of the filter assembly as explicitly disclosed by Powell is entirely different from what is recited in claims 1 and 21 of the present invention.

As noted previously, Powell explicitly discloses at column 3, lines 38-49 that air flows into the canister through the outer wall, through the filter media, and then through the inner wall. In addition, Powell also explicitly discloses at column 3, lines 45-48 that the bottom of the canister is blocked by the end cap. Thus, in accordance with the disclosure of Powell, air enters the canister of the filter assembly through the cylinder walls, and is prevented by the end cap from entering through the bottom.

The rejection states that there is no suggestion by Powell that the structure of the outer wall, filter media, and inner wall deflects air. Applicant agrees. Given that these structures are not disclosed to deflect air, and indeed are disclosed to pass air, Applicant respectfully points out that air will enter from everywhere along the circumference of the canister, barring some positive disclosure by Powell to the contrary.

As illustrated in Figure 2 of Powell, the canister is shown to be inclined. Since air may be drawn in from anywhere along the canister's circumference - through the cylindrical outer wall en route to the cylindrical inner wall, as disclosed by Powell - then in particular air may be drawn in from the top side of the cylinder. Air drawn in from its top side will be drawn in in a downward direction. Applicant encloses herein a copy of Figure 2 of Powell, marked to illustrate this. As shown, air from the top portion of the canister would enter in a downward direction if the device operates as disclosed by Powell.

The rejection alleges speculation by the Applicant that air does not rise in the filter assembly of Powell. Applicant is not aware of any such speculation. However, Applicant respectfully submits that the question of whether air rises in the filter assembly of Powell is moot.

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First, claims 1 and 21 of the present invention recite that all air rises while passing through the screen layer. Thus, even if the filter assembly of Powell is considered equivalent to the screen layer of the present invention, which point Applicant does not concede, whether Powell teaches that air rises is not relevant, unless Powell teaches that all air rises. As indicated above, some of the air that is passing into the filter from the outer wall to the inner wall will move downward while so doing. This is entirely different from the principles of the present invention.

Second, as noted above, Applicant respectfully submits that the filter assembly of Powell is not a screen layer as in the present invention. Where the screen layer of the present invention is in the form of a layer, the filter assembly of Powell is in the form of a cylindrical canister. This also is entirely different from the principles of the present invention.

As the present invention according to claims 1 and 21 includes features neither disclosed nor suggested by Powell, Applicant respectfully submits that claims 1 and 21 are not anticipated by Powell. Reconsideration and withdrawal of the rejection is respectfully requested.

Claim 19 depends from claim 1, and incorporates the limitations thereof. The remarks made above with regard to claim 1 apply equally to claim 19, and Applicant respectfully submits that separate arguments need not be presented in support of claim 19 at this time. Applicant does not concede the correctness of the rejection, and reserves the right to present further arguments.

Claims 2-4, 6-8, 15, 17, 18, and 20 are rejected under 35 U.S.C. § 103(a) as being obvious from Powell in view of Martenas et al. (U.S. Patent No. 5,199,522). Applicant respectfully traverses the rejection.

Claims 2-4, 6-8, 15, 17, 18, and 20 depend from claim 1, and incorporate the limitations thereof. The remarks made above with regard to claim 1 apply equally to these dependent claims, and Applicant respectfully submits that separate arguments need not be presented in their

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support at this time. Applicant does not concede the correctness of the rejection, and reserves the right to present further arguments.

Applicant notes that Martenas is relied upon to teach features such as the structure of a hood and the arrangement of an air intake. However, even if Martenas is prior art as categorized, and is suitable for combination with Powell, which points Applicant does not concede, Martenas does not remedy the deficiencies of Powell. In particular, Martenas does not disclose or suggest an air path such that all air flowing therein must pass through a screen, and must rise while passing therethrough.

Applicant appreciates the Examiner's determination that claims 5, 9-14, and 16 contain allowable subject matter. Applicant does not concede that these claims are allowable only for the reasons stated in the Office Action.

As all matters raised in the Office Action are now addressed, Applicants believe all pending claims likewise are in condition for immediate allowance. Favorable reconsideration in the form of a Notice of Allowance is respectfully requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's primary attorney-of-record, Douglas P. Mueller (Reg. No 30,300) at (612) 371-5237.



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Respectfully submitted,

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